

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6761 of 2012

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Parmanand Choudhary S/O Late Chandrdeo Choudhary R/O Mohalla- Manik
Sarkar Chowk, Ghat Road Lane-3, P.S.- Adampur, District- Bhagalpur

... .. Petitioner/s

Versus

1. The Bihar Kshetriya Gramin Bank, through its Chairman, Bhagat Singh Chowk, Munger.
2. The Chairman-Cum-Disciplinary Authority Bihar Kshetriya Gramin Bank, Bhagat Singh Chowk, Munger
3. The Board Of Directors-Cum-Appellate Authority Bihar Kshetriya Gramin Bank, Bhagat Singh Chowk, Munger
4. The General Manager, Bihar Kshetriya Gramin Bank, Bhagat Singh Chowk, Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate
For the Respondent/s : Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 28-03-2024

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the Bank.

2. The present writ petition has been filed for the
following reliefs:-

*I. Issuance of an order, direction or writ in
the nature of certiorari quashing Ref. No.
HO/P/296/2012 dated 18.07.2011
(Annexure-10) whereby and whereunder the
Respondent No. 2 has intimated the
petitioner about the dismissal of the
petitioner's Service Appeal dated*



16.03.2009 (Annexure-6).

II. Issuance of an order, direction or writ in the nature of certiorari quashing the order dated 17.11.2008 (Annexure-5) passed by Respondent No. 2, whereby and whereunder he has inflicted two punishments to the petitioner, i.e. (1) censure (2) withholding of future increments including stagnation increment for a period of three years with cumulative effect.

III. Issuance of an order, direction or writ in the nature of certiorari quashing Memo of charges dated 15.02.2008 (Annexure-1), whereby and whereunder two charges have been levelled against the petitioner.

IV. For grant of any other relief or reliefs to which the petitioner may be found entitled to in the facts and circumstances of this case.

3. Learned counsel for the petitioner submits that the petitioner was working as an officer in Bihar Kshetriya Gramin Bank, Mahua Branch. On 07.03.2008 the bank respondent authority has served a show cause notice upon the petitioner alleging therein that the petitioner failed to obey the orders of the Manager under whom he was working and committed acts detrimental to the interest of the Bank. The second charge is that the petitioner remained absent from his duty without prior sanction of leave and as such he has acted against the interest of the Bank.

4. Learned counsel for the petitioner further submits that in the said show cause notice, the petitioner was asked to submit his explanation within 7 days from the date of receipt of



the letter dated 15.02.2008. He further submits that the petitioner has received the letter dated 15.02.2008 on 07.03.2008 and after that he had submitted his explanation on 14.03.2008, whereby he denied the charges levelled against him and requested for his exoneration from the charges.

5. Learned counsel for the petitioner submits that the disciplinary authority neither himself inquired the matter nor appointed any inquiry officer to inquire about the said allegation as levelled against the petitioner and without initiating any regular departmental proceeding and without giving any reasonable opportunity to the petitioner to put forward his defence, passed the final order of punishment dated 17.11.2008, whereby major punishment has been inflicted upon the petitioner. The petitioner preferred appeal before the Board of Director, through the Chairman (the disciplinary authority) on 16.03.2009. The Chairman of the Bank has not placed the memo of appeal before the Appellate Board and communicated the petitioner that memo appeal is barred by limitation and the same was not placed before the Appellate authority.

6. The petitioner filed C.W.J.C No. 12274 of 2009 challenging the memo of charge dated 15.02.2008 (Annexure-1), order of punishment dated 17.11.2008 (Annexure-5) and



order dated 19.03.2009 (Annexure-7).

7. Learned counsel for the petitioner submits that the Hon'ble Court after hearing the parties have set aside the order dated 19.03.2009 (Annexure-7) and directed the respondent bank concerned to place an appeal of the petitioner before the Appellate Authority. He further submits that after the order dated 13.07.2010 passed in C.W.J.C No. 12274 of 2009 the petitioner has submitted a detailed representation before the Board of Directors of the Bank (respondent no. 3) through the Chairman of the Bank on 12.08.2010, where the petitioner has requested to pass necessary orders setting aside the order of punishment dated 17.11.2008 (Annexure-5).

8. The Board of Directors of the Bank without applying judicious mind, rejected the service appeal dated 16.03.2009 of the petitioner. Learned counsel for the petitioner submits that the appeal of the petitioner was rejected in a mechanical manner without considering the contention of the petitioner which he has raised in the memo appeal pursuant to the direction of this Hon'ble Court dated 13.07.2010 in C.W.J.C No. 12274 of 2009. He further submits that it appears from Annexure-10 that the Appellate Authority has not considered anything which was mentioned in the memo appeal of the



petitioner and appeal of the petitioner was rejected.

9. Learned counsel for the Bank has filed a detailed counter affidavit stating therein that the initiation of proceeding for imposition of minor penalty to the petitioner in compliance of the instruction conveyed to the Manager from Regional Office, Lakhisarai, under whose superintendence and control Mehus Branch functions and the petitioner not only refused to carry out the instruction but also uttered "आप लोग जान बूझकर शनिवार का प्रोग्राम रखते हैं, मुझे सोमवार से छुट्टी पर जाना है। ब्रम्हा, विष्णु महेश भी कहेंगे तो मैं प्रभार नहीं लूँगा"

10. Learned counsel for the Bank further submits that the Manager reported the matter to his controlling Regional Office, Lakhisarai who vide their letter no. RO/LKR/PER/105/07-08 dated 19.01.2008 recommended for imputation against the petitioner. He further submits that for such defiant and disobedient acts of the petitioner, proceedings for minor penalty was initiated against the petitioner and according to the Regulation 38 of the Service Regulation the petitioner was served imputation of lapses dated 15.02.2008 in terms of the regulation 38 of Bihar Kshetriya Gramin Bank. From perusal of the Regulation 38 of the Bihar Kshetriya Gramin Bank it suggests that :-

"38. Penalties – Without prejudice to



foregoing Regulations of this Chapter an officer or employee who commits a breach of these Regulations or who displays negligence, inefficiency or indolence or who commits acts detrimental to the interests of the Bank or in conflict with its instructions, or who commits a breach of discipline or is guilty of any other acts of misconduct shall be liable for any one or more penalties, as prescribed hereinafter.”

*“(vii) Termination of service of an Officer
(c) As part of retrenchment:*

Provided that where it is proposed to impose any of the minor penalties specified in sub-clauses (i) to (iii) of Clause I of this Regulation, the officer concerned shall be informed in writing of the imputations of lapses against him and given an opportunity to submit his written statement of defence within a specified period not exceeding 15 days or such extended periods as may be granted by the Competent Authority and the defence statement, if any, submitted by the officer shall be taken into consideration by the Competent Authority before passing orders.”

11. In terms of the Regulation 38 of the Bihar Kshetriya Gramin Bank and as per the provision stated hereinabove, the imputation of lapses was served on the petitioner and after considering the reply to the imputation, the authority has passed the order. The petitioner has mentioned in his writ petition that the petitioner has inflicted major punishment and in fact the petitioner has been inflicted minor punishment and the minor penalty was instituted and the petitioner was awarded the punishment as per the provisions of



the service regulation of the Bank and as per the Regulation 47 of the above said Regulations, it is required of an officer to prefer an appeal against any order within 45 days of the date of receipt of this letter and the petitioner has not filed the appeal within 45 days so the Appellate Authority has rejected the appeal of the petitioner on the ground that the memo of appeal is barred by limitation. In compliance of the order dated 13.07.2010 passed in C.W.J.C No. 12274 of 2009 the Appellate Authority applied its judicious mind and after carefully considering the submission of the petitioner and relevant records have passed the order accordingly and the act of disobedience meted out by the petitioner was witnessed by Sri Madan Prasad Singh, Messenger on 11.01.2008 who subsequently submitted a letter dated 19.07.2008 after transfer of the reporting Manager in the favour of the petitioner and there is no violation of principle of natural justice and the petitioner has been given an opportunity to submit his written statement as per Regulation 38 of the Bank which was considered by the authority concerned while inflicting the minor punishment against the petitioner and also by the Appellate Authority in the dismissal of his appeal.

12. Having heard learned counsel for the petitioner



and learned counsel appearing on behalf of the Bank and from perusal of the records as well as Regulation 38 of the Bank, this Court does not find any fault in the proceeding and according to Regulation 38 of the Bank, regular departmental proceeding is not required and the order passed by the Bank in accordance with Regulations of the Bank.

13. This Court, therefore, finds no merit in the writ petition. It is dismissed accordingly.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.04.2024
Transmission Date	N/A

